

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.9.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.Nos.984 and 1207 of 2007

H.C.P.No.984 of 2007

G.Haribabu

.. Petitioner

Vs

1. The Secretary to Government
Home Department
Government of Tamilnadu
Secretariat, Chennai.

2. The Superintendent of Police
"Q" Branch CID
Chennai.

3. The Additional Director General
of Police, Special Task Force
Chennai, Tamil Nadu.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus to direct the respondents to produce the bodies and persons of three persons, (i) Sundaramurthy, son of VEDIYAPPAN, (ii) Karthi, son of Mani; and (iii) Eswaran, son of Mookaiyah, who are in the unlawful custody of the respondents, before this Court and to set them at liberty.

H.C.P.No.1207 of 2007

S.Sengkodi

.. Petitioner

Vs

The State of Tamil Nadu
rep. by the Deputy Superintendent
of Police, "Q" Branch
Dharmapuri/Thirupattur.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus to call for the records of the order dated 16.8.2007 in CrI.M.P.No.48 of 2007 in C.C.No.6 of 1993 on the file of the Designated Court-II, Chennai, to quash the police custody and remand the detenu Sundaramoorthy to judicial custody.

For Petitioners	:	Mr.S.Rajanikanth
For Respondents	:	Mr.N.R.Elango
		Addl. Public Prosecutor
		for R1 and R3 in HCP:984
		of 2007 and respondent
		in HCP:1207 of 2007
		Mr.P.Venkatasubramanian
		Spl. Public Prosecutor
		(POTA Cases) for R2 in
		H.C.P.No.984 of 2007

ORDER

(Order of this Court was made by P.D.DINAKARAN,J.)

In H.C.P.No.984 of 2007, the petitioner questions the illegal custody of the detenus, viz., (i) Sundaramurthy, son of VEDIYAPPAN, (ii) Karthi, son of Mani; and (iii) Eswaran, son of Mookaiyah, in connection with Crime Nos.1004 to 1006 of 2002 on the file of the Uthangarai Police Station for various offences punishable under the POTA Act, Arms Act and Explosive Substances Act.

2. In H.C.P.No.1207 of 2007, the petitioner questions the grant of police custody of the detenu Sundaramoorthy by the Designated Court-II, TADA(P) Act, 1987, Chennai by order dated 16.8.2007 made in CrI.M.P.No.48 of 2007 in C.C.No.6 of 1993 in Crime No.80 of 1992 on the file of Dharmapuri RPS for the offences punishable under TADA, Indian Railways Act and Explosive Substances Act.

3.1. Mr.N.R.Elango, learned Additional Public Prosecutor submits that the detenus in H.C.P.No.984 of 2007 are under judicial custody as on date with regard to the offences punishable under the POTA Act, Arms Act and Explosive Substances Act.

3.2. In so far as H.C.P.No.1207 of 2007 is concerned, it is now reported by Mr.N.R.Elango, learned Additional Public Prosecutor that the period for which police custody of the detenu Sundaramoorthy was granted came to an end on 20.8.2007 and as on date, the detenu is only under judicial custody.

4. Admittedly, as on date, all the detenus are under judicial custody and not under police custody. What the detenus have to challenge would, therefore, be the judicial orders passed and the appropriate remedy is to prefer a revision or appeal before the Court concerned.

5. At this stage, we would like to state that, it has become common experience in High Courts that whenever a habeas corpus petition is filed, in cases of unlawful detention, the High Court orders notice and a counter is filed by the police authorities stating that the person was not detained on the date alleged but was detained on a later date or that the said person was produced before a Magistrate within 24 hours of detention and the Magistrate had remanded the person to judicial custody. In such cases, the High Court can only dispose of the cases, saying no further orders are necessary, of course, in some cases, the Court would order an enquiry by a Subordinate Court for deciding whether the person was detained or not.

6. We find, in the case on hand, except to permit the detenus to approach the competent Court for appropriate relief and to direct the respective Courts to enquire into the grievance of the petitioner as to the alleged illegal detention and to work out further relief in the manner known to law, no further orders need be passed in these habeas corpus petitions, as the scope of the habeas corpus petition is only for production of the body or person of the detenu before the Court, which could be exercised only during the pendency of the police custody and once the period of police custody has expired this Court also is ceased to have the jurisdiction to produce the body of the detenu.

These habeas corpus petitions are closed with the above direction.

सत्यमेव जयते

Sd/-

Asst. Registrar.

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Sub Asst. Registrar.

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To:

1. The Secretary to Government
Home Department
Government of Tamilnadu
Secretariat, Chennai.
2. The Superintendent of Police
"Q" Branch CID
Chennai.
3. The Additional Director General
of Police, Special Task Force
Chennai, Tamil Nadu.
4. The State of Tamil Nadu
rep. by the Deputy Superintendent
of Police, "Q" Branch
Dharmapuri/Thirupattur.

1 cc to Mr.R.Sankarasubbu, Advocate, SR. 55232

H.C.P.Nos.984 and 1207 of 2007

MDR (CO)
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